

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

MELVIN GARCIA # 01403-748

PLAINTIFF

v.

CIVIL ACTION NO. 1:17cv26-LG-RHW

FLOYD SPOTTS, et al.

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION,
AND GRANTING MOTION FOR SUMMARY JUDGMENT**

For the reasons stated in the [52] Report and Recommendation of the Magistrate Judge filed September 24, 2018, and after an independent review of the record, a de novo determination of the issues, and consideration of Plaintiff's [54] Response to the Report and Recommendation, and having determined that the findings are correct under applicable law:

IT IS ORDERED AND ADJUDGED that the [47] Motion for Summary Judgment filed by Defendants Floyd Spotts, Kerwin Blount, and Pease Sumrall, Jr. is **GRANTED**. Plaintiff's official capacity claims against Spotts, Blount and Sumrall are **DISMISSED** with prejudice as barred by sovereign immunity. Plaintiff's state law claims against Spotts, Blount and Sumrall are **DISMISSED** with prejudice as barred by state law immunity. Plaintiff's federal civil rights claims against Sumrall are **DISMISSED** with prejudice pursuant to qualified immunity. Plaintiff's excessive force claims against Spotts and Blount shall proceed.

SO ORDERED AND ADJUDGED this the 18th day of December, 2018.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE